


PETITION

OF

ALBIN MICHEL,

IN BEHALF

 *the heirs of Madame de Lusser, praying the confirmation of a grant of land in Mobile, in the State of Alabama.*

JANUARY 9, 1840.

Ordered to be printed, to accompany bill S. No. 55.

To the honorable the Senate and House of Representatives of the United States of America, in General Congress assembled:

The petition of Albin Michel, residing in the city of New Orleans, and State of Louisiana; herein acting for himself and as the natural tutor of his minor son, Henry Clement Albin Michel;—also as the duly authorized agent of Chevalier Walligny, Edward Robin Delogny, Estelle David, Victoire David, Constance David, Celeste David, and Amelie David, all of the said city of New Orleans, and constituting one of the branches of the lineal heirs of the late John B. de Lusser, an ancient inhabitant of the city of Mobile and State of Alabama, wherein he died about the year 1788;—Also, herein acting as the attorney of the heirs of Don Miguel de Eslava, late of the said city of Mobile, deceased, assignee of the rights of another branch of the lineal heirs of the said de Lusser, so far as it respects a certain piece of property situate in the southern part of the said city of Mobile and hereinafter described,

MOST RESPECTFULLY SHOWS:

That he and his said constituents are co-proprietors of a certain lot or portion of land, situate in the southern part of the said city of Mobile, measuring two arpens and four toises front on Washington street, and extending towards the west, twenty-five arpens in depth, between parallel lines: That they claim said property in virtue of a complete grant, issued by the French Government in favor of Madame de Lusser, mother of the said John B. de Lusser, on the 27th day of December, 1763, which said grant sets forth a possession long anterior to the period of its date, all which will more fully appear by reference to documents hereunto annexed (marked A) which have been duly recorded in the Land Office for the district of lands east of Pearl river, (B. pp. 273, 274, 275, and 276.) That under none of the divers governments, which in due course and lapse of time succeeded each other in the said city of Mobile, were the said Mrs. de Lusser and son, nor their heirs, disturbed or molested in their peaceable possession

Blair & Rives, printers.

of said land ; which on the contrary was always recognised by the English and Spanish governors and intendants as their true and lawful property ; and and that no concession or sale has ever been made of the whole or part of said land to any one whomsoever, calculated to change the title thereof, which has, on the contrary, to this day, continued to remain vested in the said de Lusser family : And that, moreover, since the last change of government, and the earliest period of the incorporation of the said city of Mobile, your petitioner has regularly paid the taxes, which have been imposed upon said land.

Your petitioner further shows : That on the 21st day of June, 1809, a certain Joseph J. Chastang, residing in the said city of Mobile, without any authority whatsoever, except from Mr. Hazeur de Lorme, one of the heirs of the said J. B. de Lusser, took upon himself to sell and convey unto Don Miguel de Eslava, the above described land, for the price and sum of one hundred dollars, as will again more fully appear by reference to the said annexed documents marked A : That said sale was long unknown to your petitioner, who then resided, (as he still continues to do) in the city of New Orleans ; but that as soon as he became acquainted therewith, and had taken necessary cognizance thereof, he forthwith instituted suit against the said Eslava, in order to procure a rescission of said sale, on the ground that the said Chastang had never been empowered, neither by him nor those equally interested in said land, to effect said sale ; and that after due proceedings had, a transaction or compromise finally took place, from which it resulted that said sale was annulled so far as the same related to the rights of your petitioner and his said constituents, forming the "Develle branch" of the heirs of the said Lusser ; but was maintained, as it respected the portion belonging to the "Hazeur branch" of said heirs, as will more particularly appear by reference to the annexed copy marked B.

Your petitioner moreover shows : That, pursuant to the said transaction between him and the heirs of Eslava, (Don Miguel being then deceased,) the said heirs took upon themselves the charge of procuring, in due and proper form, from the Government of the United States, a full confirmation of the original title to said land, and that until last year, your petitioner was under the firm conviction that all the formalities, in similar cases required, had been complied with and fulfilled, and that said confirmation had been obtained ; in which conviction he was strengthened, by the antiquity of said title, by the peaceable and undisturbed possession, which he and his said constituents, and their ancestors, had ever enjoyed of said land, and by the several dispositions made from time to time of parts of said land, without any hinderance or molestation from any source whatsoever, public or private.

Your petitioner further shows : That he has been informed, that the claim preferred by the heirs of Eslava to the land in question, was, at the last session of your honorable body, rejected, on the ground that the said heirs had presented themselves as claiming in virtue of "a grant lost by time," which would entitle them to the favor of Government for a new grant or donation ; and inasmuch as they had already obtained this favor, once before, the law, in such cases made and provided, did not permit them to become applicants for the same, a second time. Against this decision, your petitioner would most respectfully remonstrate, as occasioning great wrong and prejudice to him and his said constituents: he would, therefore, humbly solicit at your hands, a confirmation of the title or grant, as hereinbefore recited, which has not been lost by time, notwithstanding its antiquity, but has

been duly recorded in the land office above alluded to, and which, moreover, has ever been respected, under all circumstances, for upward of seventy years, as the indisputable tenure to property constituting part of the patrimony of an old and respectable family; and for the maintenance of which, your petitioner trusts to that strong sense of justice and equity which has ever characterized the proceedings of your honorable body.

And your petitioner, as in duty bound, will ever pray, &c.

ALBIN MICHEL.

A.

To the commissioner of land claims east of Pearl river :

SIR : Please take notice that I claim the following tract of land :

A small tract of land, situated southwest of the fort, containing two arpens and four toises front, by twenty five arpens deep, by virtue of a grant, lost by time or accident, given by the Spanish government in favor of Joseph Chastang, from whom I purchased by deed of conveyance dated the 21st of June, 1809.

MIGUEL ESLAVA.

From the Spanish.

Know all men by these presents : That I, Joseph Chastang, an inhabitant of this place, do acknowledge, that in the name and by the authority of Mr. Hazeur de Lorme, an inhabitant of New Orleans, heir of the succession of Mr. Lusser, also of the same place, I sell, really and bona fide, to Miguel Eslava, storekeeper of this place, a lot containing two arpens and four toises in front, and twenty five in depth, situate southwest of the King's fort in this place, bounded on the east by the house and lot of the purchaser, on the west by lots of M. Monsieur, and on the north and south by vacant lots. The whole appearing from authentic documents, which I deliver to the purchaser, and missive letters which are recorded in this commandancy, and which I have sold to the aforesaid by virtue of my commission, with all its uses, rights, and privileges, for the sum of one hundred hard dollars, Mexican money, to me in hand paid, with which I am satisfied, and the receipt of which I hereby acknowledge. Wherefore I renounce and relinquish all right of property, possession, command, and authority, which to said lot I had and held, and the said Mr. de Lorme, the whole whereof I renounce and transfer to the purchaser, his heirs and assigns, that as his own, he may possess, enjoy, exchange, sell, or alien it at pleasure by virtue of this writing, in whose favor I grant in sign of real delivery, with what must be seen to have acquired his lawful right unless other proof be required, from which I exempt him in the name of the said Hazeur de Lorme, binding in his name myself for the legality, security, and validity of this bill of sale in all lawful form. And I, Miguel Eslava, being present at the framing of this document, do accept of the purchase in my favor, that of my heirs, successors, and assigns at the price, quantity, quality, and conditions it is sold to me, with which lot I am satisfied, and the receipt whereof I hereby acknowledge.

In testimony whereof, this is done in Mobile, on the 21st of June, 1809, in the second year of the reign of our Catholic monarch, Ferdinand VII.

I, Cayetano Perez, captain of the Louisiana regiment of infantry, military and political commandant of this place and its jurisdiction, with two witnesses of assistance who act with me, in default of a notary public, do certify and know the contracting parties have acknowledged and signed it in the presence of Fran'co Perez Muro, Antonio Estanoz, and Eugene Chastang.

MIGUEL ESLAVA.
EUGENE CHASTANG.

Witness :

FRAN'CO CANEDO.

JOHN GALGUERA.

Before me :

CAYETANO PEREZ.

This is conformable to the original which is recorded in this commandancy under my charge ; and at the request of the purchaser, I give the present before two witnesses of assistance, for want of a notary public, and on plain paper, there being no stamp in use on the day of the contract.

CAYETANO PEREZ.
FRAN'CO PEREZ MURO.

FRAN'CO CANEDO.

From the English.

I certify the above to be a true signature of the late Spanish commander of this place and district. In testimony whereof I have hereunto set my hand and affixed the seal of my office.

THOMAS POWELL, *Notary Public.*

MOBILE, *December 22, 1813.*

From the French.

[Registered No. 3.]

We, Peter Annibal Develle, Knight of the Royal and Military Order of St. Louis, ancient lieutenant to the King at Mobile, we certify that Madame Lusser holds and possesses in this town of Mobile a lot of ground of two arpens and four toises front, by twenty-five in depth, fronting other lots of the said Mrs. de Lusser and Mr. de Beinvillle, (Bonnille,) adjoining that of Mr. de Morzier, and bounded on the other side by pine land ; which said lot the said lady had cleared in the year 1748, and serves to lodge her slaves, for whom she has had cabins built thereon.

In witness whereof we have delivered to her the present certificate to serve her as titles of property to said lot.

DEVELLE.

MOBILE, *December 27, 1763.*

We, Director-General-Commandant for the King at New Orleans, do certify that the lot above mentioned is to belong in full property to Madame de Lusser, in conformity to the intentions of his most Christian Majesty, and by virtue of the power he has given his governors and ordinators to allow all his subjects to establish themselves in this department of Mobile where they should deem fit.

In testimony whereof we have signed the present certificate, and affixed
[L. s.] to it the seal of our arms, and countersigned by our secretary.

DABBADIE.
DUVERGE.

By our lord.

MOBILE, *December 27, 1763.*

[Some part of the French has been lost.]

This is to certify that the foregoing is a true copy from the books of the
land office, Evidence Book B, pages 273, 274, 275, and 276.

For WILLLOUGHBY BARKON,
BER. BRENT. BREEDIN.

LAND OFFICE, DISTRICT EAST OF PEARL RIVER,
Jackson C. H., January 28, 1821.

LAND OFFICE, *St. Stephens, Ala., July 3, 1834.*

The heirs of Miguel Eslava have presented a claim to a tract of land in the city of Mobile, containing two arpens and four toises front, by twenty-five arpens deep, founded on a French grant from Dabbadie, director-general of Louisiana, bearing date the 27th of December, 1763, to Madame de Lusser, and conveyed by the attorney of the heirs of de Lusser, to Miguel Eslava, on the 21st of June, 1809, which conveyance passed through the office of the commandant of Mobile, as appears from his certificate. This claim was presented to the commissioner of private land claims, in 1814; the claimant stating in his application, that the claim was founded upon a "grant lost by time or accident;" but at the same time filing the original French grant to Madam de Lusser, with the conveyance to him, which appears of record. In the report of the commissioner, this claim is classed as a "grant lost by time or accident," and there being no evidence adduced that the tract was inhabited and cultivated under the Spanish government, it was not confirmed to the claimant.

The heirs of Miguel Eslava now present their claim, and desire it to be confirmed under the 3d section of the act of the 2d March, 1839, entitled, "An act confirming the reports of the register and receiver of the land office for the district of St. Stephens, and for other purposes," having produced evidence of the land having been in possession of the original grantee and the present claimants from the year 1796 to the present time; and also, that Miguel Eslava was a resident of that part of Louisiana, situated east of Pearl river, west of the Perdido, and below the 31st degree of latitude, on the 15th of April, 1813, and on that day to have been in possession of the tract claimed, and that the said tract was in the possession of Miguel Eslava and the original grantee for ten consecutive years previous to that day; and that it is not claimed by any other person.

It is therefore recommended for confirmation.

JOHN B. HAZARD, *Register.*
JOHN H. OWEN, *Receiver.*

GENERAL LAND OFFICE, *May 5, 1838.*

I hereby certify that the foregoing, on pages 1 and 2, is a true copy from the original in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the
[L. s.] seal of office to be affixed at the city of Washington the day and
year above written.

JAS. WHITCOMB, *Commissioner.*

GENERAL LAND OFFICE, *May 5, 1838.*

SIR : In compliance with your request of the 4th instant, I herewith enclose an authenticated copy of the report dated the 3d of July, 1834, of the register and receiver at St. Stephens, relative to the claim of the heirs of Miguel Eslava, to "a tract of land in the city of Mobile, containing two arpens and four toises front, by twenty five arpens deep."

A letter of the 7th of July, 1834, from those officers, enclosing the report, appears to be the only document by which the said report was accompanied.

Very respectfully, your obedient servant,

JAS. WHITCOMB, *Commissioner.*

F. A. DICKINS, Esq.

Translation made March 18, 1839.

[Registered No. 3.]

We, Pierre Annibal Develle, Chevalier of the Royal and Military Order of St. Louis, former Lieutenant of the King at Mobile, do certify, that Madame de Lusser holds and possesses in this city of Mobile a piece of ground of two arpens and four toises front and twenty-five in depth, facing other pieces of ground belonging to the said lady and to M. de Bonnille, joining on one side the ground of M. de Morzier, and bounded on the other by the pine woods, which said piece of ground the said lady has had cleared in the year one thousand seven hundred and forty eight, and it serves as a place of abode for her slaves, for whom she has had cabins built there. In faith whereof, we have delivered to her the present certificate to serve her as title of ownership to the said piece of ground.

DEVELLE.

MOBILE, *December 27, 176--.*

We, Director-General-Commandant for the King at New Orleans, do certify that the * * * * * mention * * above should belong to * * * * * de Lusser. * * * * * His most Christian Majesty, and to the power which he has given to his governors and ordinators to permit all his subjects to establish themselves in this department of Mobile wherever they may think proper. In faith whereof, we have signed the present certificate, and have caused the seal of our arms to be affixed thereto, and have had it countersigned by our secretary.

DABBADIE.

By his excellency :

DUVERGE.

MOBILE, *December 27, 1763.*

N. B.—The original French manuscript from which this translation was made, was defective at the places corresponding with those here marked by stars * * *.

R. GREENHOW, *Translator.*

WASHINGTON, D. C., *March 20, 1839.*

Truly and correctly translated from the original in the French language,
by ROBERT GREENHOW,
Translator in the Department of State of the U. S.

[Enregistered No. 3.]

Nous Pierre Annibal Develle, Chevalier de l'ordre Royal et Militaire de St. Louis, ancien Lieutenant de Roi à la Mobile, certifions que Madame de Lusser tient et possède en cette ville de la Mobile un terrain de deux arpens quatre toises de face et vingt cinq de profondeur fesant face à d'autres terrains de la ditte dame de Lusser et de M. de Bonnille, attenant d'un cote à celui de M. de Morzier et borné de l'autre par la piniere, lequel dit terrain la ditte dame a fait defricher en l'an * * * mil sept cent quarante huit, et lui sert à loger ses esclaves pour les quels, elle y a fait batir des cabanes; en foi dequoy nous lui avons delivré le present certificat pour lui servir de titres de propriété du terrain.

DEVELLE.

A LA MOBILE, le vingt sept Decembre, 176—.

Nous Directeur-Général-Commandant pour le Roi à la Nouvelle Orleans, certifions que le t * * * * nention * * * * dessus doit appartenir * * * * de Lusser. * * * * Sa Majesté tres Chretienne et au pouvoir qu'elle a donné à ses Gouverneurs et ordonnateurs de permettre à tous ses sujets de s'établir en ce departement de la Mobile ou ils jugeroient à propos. En foi de quoi nous avons signé le present certificat et à icelui fait apposer le cachet de nos armes et contre signer par notre secretaire.

DABBADIE.

Par mon seigneur :

DUVERGE.

A LA MOBILE, le vingt sept Decembre, 1763.

N. B.—The manuscript from which the above copy was made is defective at the places marked in this copy by stars, thus * * * *.

Translated and recorded in book B, pages 275 and 276.

ED. KINGSTON, Clerk.

Recorded in office for records, October 17, 1835.

H. LEWIS, Clerk.

Recorded in book P, pages 52 and 53.

H. LEWIS, Clerk.

WASHINGTON, D. C., March 20, 1839.

A true copy, line for line.

ROBERT GREENHOW,

Translator in the Department of State of the U. S.

B.

Pardevant Felix de Armas, notaire public à la residence de la Nouvelle Orleans, Etat de la Louisiane, Etats Unis d'Amerique, et en presence des temoins ci-apres nommés et soussignés, furent presents, Sieur Albin Michel, demeurant en cette paroisse agissant aux presentes en qualité, 1o, de tuteur naturel et légitime administrateur des droits et actions de ses enfans mineurs, Henry Clément Albin et Amelie Marguerite Avoye,

icieux donataires suivant acte du treize Novembre, mil huit cent vingt-et-un, devant Michel de Armas, lors notaire de Sieur Alexandre Cabaret, fils et heritier de feu Marguerite Chevalier épouse Cabaret ; 2o, de mari et maitre des droits et actions de Dame Marguerite Charlotte Cabaret, fille et heritiere de la dite Dame Chevalier, épouse Cabaret ; 3o, de procureur fondé suivante acte sous seing privé, déposé, et enrégistré, ainsi qu'il l'a déclaré, au lieu de la Mobile, Etat d'Alabama, de Dame Constance Cabaret, épouse du Sieur Pierre Robin Delogny, fille et heritiere de la dite Dame Chevalier épouse Cabaret ; 4o, de procureur fondé du Sieur Chevalier Vatigny, suivante acte, (passé à Signy, le petit Dept. des Ardennes, en France, devant Demeaux, notaire aux dits lieux, le dix Octobre de l'année dernière,)* les dites Dame Chevalier épouse Cabaret et Chevalier Vatigny, enfants et heritiers de feu Dame Lusser, épouse Chevalier de Velle, enfant et heritiere pour la demie, de feu Jean Baptiste Lusser. Et emore en qualité de procureur fondé suivant le susdit acte de procuration sous seing privé, déposé à la Mobile, de Sieur Hiacinthe Hazeur, Louis Hazeur, Marie Hazeur, veuve Dreuf, et de Dame Constance Beaulieu, veuve Hardi de Boisblanc, fille et heritiere de feu Dame Hazeur, épouse de Beaulieu, les dits Sieurs et Dames Hazeur, enfants et heritiers de Dame Lusser, épouse Hazeur, enfant et heritiere pour l'autre demi du dit feu Jean Baptiste Lusser, d'une part : et Sieur Thomas F. Townsley, demeurant en cette ville, agissant aux presentes en qualité de procureur fondé suivante acte du vingt et un Octobre dernier, devant G. R. Stringer, notaire de Michel D. Eslava, Gerome Eslava, Gertrude Eslava, épouse du dit Sieur T. F. Townsley, et Foachin Eslava, mineur pubère, dont le curateur est le dit Sieur Townsley, les dits épouse et mineur, assistés et autorités au dit acte par leur dits mari et curateur, les dits Sieurs et Dame Eslava, enfants et heritiers de feu Miguel Eslava, et encore le dit Sieur Townsley, comme administrateur de la succession du dit feu Sieur Miguel Eslava, nommé par la cour de la Mobile le troisième Samedi de Septembre mois dernier, d'autre part.

Lesquelles parties ont déclaré connaître les titres et pièces par lesquelles sont établis leurs qualités ci-dessus respectivement prisés, et n'en exiger ni apport ni annexe ni autre désignations que celles ci-dessus.

Et ont dit et déclaré que voulant terminer à l'amiable les contestations qui existent entre les parties de l'une et l'autre, part à raison de la vente faite,† Chastan agissant au nom des heritiers Lusser au Sieur Miguel Eslava, lors vivant d'une propriété située à l'ouest de la résidence du dit feu M. Eslava à la Mobile, ayant deux arpens quatre toises de face sur vingt-cinq arpens de profondeur, ils se sont mutuellement communiqués leurs titres et reclamations, et après mur axamen du tout, ils ont convenu et arrêté la transaction suivante comme transaction sur procès, à toujours ferme, stable et immuable entre les parties, leurs heritiers, et ayant causes.

1o. La vente de la dite propriété est reconnue bonne, valable, et définitive en ce qui concerne la demie afferante aux heritiers et representants de la Dame Lusser, épouse Hazeur. En conséquence, le dit Sieur Michel

* Nota.—Après les mots "suivante acte," il se trouve deux lignes en blanc, dans l'original dont ceci est copié, et en marge du dit acte, il se trouve les mots compris dans les parentheses, ci contre écrits en crayon.

aux qualités qu'il agit declare en tant que de besoin serait confirmer et ratifier la vente de la demie indivise appartenant à la dite branche Hazeur sur la propriété dont il s'agit s'interdisant au dit nom tant pour les dits heritiers Hazeur, que pour leurs successeurs, et ayants cause de revenir jamais directement ni indirectement contre la dite vente de la demie indivise voulant que ce qu'est et a été fait à cet égard, soit et demeure toujours ferme, stable, et immuable, sans espoir de retour, ni recherche sous quelque motif et pretente que ce soit.

2o. La vente de la dite propriété est reconnu nulle et sans effet en ce qui concerne la demie afferante aux heritiers et representants de la Dame Lusser, épouse Chevalier. En consequence, le dit Sieur Townsley, aux dites qualités, a par les presentes retrocedé, transmis, et abandonné, sans reserve aucune, aux heritiers de la dite Dame Lusser, épouse Chevalier susdenommés, pour eux ici present, et acceptant le dit Sieur Michel, aux dites qualités, la demi indivise de la propriété dont s'agit pour par les dits heritiers Chevalier, en faire jouir et disposer en toute propriété comme de chose bien et legitiment à eux appartenant ainsi et de la même manière que si jamais aucune vente ou cession n'en avait été faite, le dit Townsley, aux dites qualités, s'interdisant tant pour les dits heritiers Eslava que pour leurs successeurs, ou ayant cause toute espèce de reclamations et prétensions sur la dite demie indivise se devestissant des droits qu'il pourraient avoir sur icelle pour en investir les dits heritiers Chevalier, pour iceux être et demeurer propriétaires legitimes et definitifs de la dite demie indivise.

3o. La dite propriété sera et demeurera au moyen de ce que dessus indivise et par moitie indivise entre les heritiers Eslava et les heritiers Chevalier, s'interdisant reciproquement d'en demander l'indivision et partage en justice jusqu'à ce que tous les moyens et voies d'arrangement et partage amiable aient été amplement employés et épuissés sans succès.

4o. Le Sieur Townsley, aux dites qualités, promet et s'oblige de faire à ses frais toutes les demarches et actes nécessaires pour obtenir du gouvernement des Etats Unis la paterite necessaire pour la confirmation incommutable de la susdite propriété possedée comme dessus.

5o. Le Sieur Michel, aux dites qualités, promet et s'oblige de faire parvenir au plutôt à l'avocat chargé de poursuivre le procès en cessation de la dite vente, l'ordre d'arreter toutes poursuites et demarches ultérieure.

6o. Le Sieur Townsley, en son propre et privé nom, garantit les dits heritiers Chevalier de tous troubles et recherches par les dits heritiers Eslava, leurs successeurs, et ayant cause dans la propriété de la demie indivise à eux attribuée par l'article deux ci-dessus, et il promet et s'engage aussi en son nom propre de faire ratifier les presentes par le dit Sieur Joachin Eslava des qu'il aura atteint sa majorite.

Tous les articles ci-dessus sont correlatifs et indivisibles, dont acte fait et passé à la Nouvelle Orleans, en s'étude, le vingt-deux Novembre, mil huit cent vingt-trois, la quarante-huitième année de l'Independence Americaine, en présence des Sieurs Albert de Armas et Louis Feraud, temoins requis et domiciliés en cette ville, et ont signé les dits comparants avec les dits notaire et temoins après lecture faite.

ALBIN MICHEL,
THS. F. TOWNSLEY,
ALBERT DE ARMAS,
FERAUD,
FELIX DE ARMAS, *Not. Public.*

Pour copie conforme à l'original déposé en mon étude pour recours, en foie de quoi j'ai délivré le present, signé de ma main, et scellé du sceau de mon office, à la Nouvelle Orleans, les vingt-huit
 [L. s.] Janvier, mil huit cent vingt-cinq, et la quarante-neuvième de l'Independance Americaine.

FELIX DE ARMAS, *Not. Public.*

UNITED STATES OF AMERICA.—STATE OF LOUISIANA.

BY HENRY JOHNSON,

Governor of the State of Louisiana.

These are to certify that Felix de Armas, whose name is subscribed to the instrument of writing hereunto annexed, was, at the time of signing the same, and is now, notary public in and for the city of New Orleans, duly qualified and commissioned.

Given at New Orleans, under my hand and seal of the State, this fifth
 [L. s.] day of February, one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

H. JOHNSON.

Transaction between the heirs de Lusser and the heirs of Eslava.

[Translated from the French.]

Before me, Felix de Armas, Esq., notary public at New Orleans, State of Louisiana, &c., were present :

Mr. Albin Michel, an inhabitant of this parish, acting in this case in the capacity of 1st, natural and lawful guardian, administrator of the rights and actions of his minor children, Henry Clement Albin, and Amelie Marguerite Avoye, who are, according to an act passed on the thirteenth of November, 1821, before Michel de Armas, then notary public, the donors of Mr. Alexander Cabaret, son and heir of the late Marguerite Chevalier Cabaret's wife ; 2d, in quality of husband and master of the rights of Mrs. Marguerite Charlotte Cabaret, daughter and heiress of said Mrs. Chevalier Cabaret's wife ; 3d, in the quality of lawful attorney, by virtue of an act under private signature, deposited and registered (as he has declared it) in the city of Mobile, State of Alabama, of Mrs. Constance Cabaret, wife of Mr. Robin de Logny, daughter and heiress of said Mr. Chevalier Cabaret's wife ; 4th, in the quality of legal attorney of Mrs. Chevalier Walligny, according to an act passed in Signy le petit Departement des Ardennes in France, before Demeaux, notary public in said place, on the 10th of October last year, said Mrs. Chevalier Cabaret's wife, and Chevalier Walligny, children and heirs of Mrs. Chevalier Develle Lusser, heiress for one-half of the late Jean Baptiste de Lusser ; and moreover, in the capacity of legal attorney, according to said power of attorney under private signature deposited in Mobile, from Mr. Hyacinthe Hazeur, Louis Hazeur, Mrs. Marie Hazeur, widow Dreux, and Mrs. Constance Beaulieu, widow Hardy de Boisblanc, daughter and heiress of the late Mrs. Hazeur,

Beaulieu's wife, the said Masters and Mrs. Hazeur, children and heirs of Mrs. de Lusser, Hazeur's wife, heiress of the other half of the said late J. B. de Lusser, on one part :

And Mr. Thomas F. Townsley, an inhabitant of this city, acting for the present in the capacity of legal attorney, by virtue of an act of the twenty-first October last, passed before G. R. Stringer, Esq., notary public, of Michel de Eslava, Gerome Eslava, Gertrude Eslava, said Thos. F. Townsley's wife, Joachim Eslava, a pubescent minor whose guardian is the said Mr. Townsley, the said wife and minor being assisted and authorized in said act by the said husband and guardian ; the said Messrs. and Mrs. Eslava, children and heirs of the late Miguel de Eslava ; and also, Mr. Townsley as administrator of the estate of the said late Miguel de Eslava, appointed by the court of Mobile on the third Saturday of September last, on the other part :

Which parties have declared they knew the titles and documents upon which rest the qualification abovementioned, respectively taken by them, and that they do not require any exhibition, annex, nor further designations but those abovementioned ; and have said and declared that, wishing to terminate amicably the controversies now existing between them, the contending parties, on account of a sale made by Mr. Chastang, acting in the name of the heirs of de Lusser, to Mr. Miguel de Eslava then living, of a property situated westward of the residence of the late Miguel de Eslava, in Mobile, measuring two arpens and four toises front on twenty-five arpens depth, they have communicated to each other their titles and claims, and after a mature examination of the whole, they have agreed and have resolved on the following transaction as a transaction on a lawsuit, for ever firm, lasting, and immutable between the parties, their heirs and their representatives :

1. The sale of said property is acknowledged to be good, lawful, and preptory, as far as it concerns the half belonging to the heirs and representatives of Mrs. de Lusser, Hazeur's wife, of the abovementioned property. Therefore, said Mr. Michel, in the quality vested in him, does declare, inasmuch as it should be necessary that he confirms and ratifies the sale of the undivided half belonging to said branch Hazeur, of the abovementioned property, interdicting himself in said capacity as well as the heirs Hazeur, their successors or representatives, to suit again directly or indirectly for said sale of the undivided half, whereby that all transaction on that subject be and remain firm, lasting, immutable, and without any hopes of reconsideration or inquiries under any motives or pretexts whatever.

2. The sale of the said property is acknowledged to be null and void in what concerns the half belonging to the heirs or representatives of Mrs. de Lusser, Chevalier's wife. Therefore, said Mr. Townsley, in his abovementioned quality, has, by these presents, retroceded, transmitted and abandoned, without any reserve whatever, to the heirs of Mrs. de Lusser, Chevalier's wife abovementioned, for them here present, and acknowledging said Mr. Michel in the above capacity, the undivided half of the abovementioned property, for said heirs Chevalier to possess, enjoy, and dispose of it as their property, duly and lawfully acquired, in the same manner as if there had never been a sale or retrocession of it ; said Mr. Townsley, in his above quality, interdicting himself as well as the heirs Eslava, their successors or representatives, all sorts of claims or pretension on said undivided half, making a full abandon of the rights he might have on the same, in favor

of the said heirs Chevalier, for them to be the lawful and definitive proprietors of the said undivided half.

3. The said property shall be, and remain, as above provided, undivided by halves between the heirs Eslava and the heirs Chevalier, they interdicting themselves reciprocally, to call for the division and the partition of the same before a court of justice; until all means and ways of amicable arrangement and partition have been unsuccessfully resorted to.

4. Mr. Townsley, in his said quality, promises and binds himself to take at his own expenses all the necessary steps, and to have all the acts drawn, to obtain from the Government of the United States, the patent necessary for the incommutable confirmation of the property possessed as above.

5. Mr. Michel, in his said quality, promises and binds himself to send as early as possible to the attorney, empowered to prosecute before a court of appeals the act of sale of said property, an order to stop all further proceedings.

6. Mr. Townsley, in his own and private name, secures said heirs Chevalier against all claims and troubles from the said heirs Eslava, their successors or representatives, on the property of the undivided half, to them belonging by virtue of the above article, the second; and he promise and binds himself also, in his private name, to have the present ratified by Mr. Joachim Eslava, as he becomes of age.

All the above articles are correlative and undivisible, this being the act.

Done and passed in New Orleans, at the office, on the twenty second of November, one thousand eight hundred and twenty-three, the forty-eighth year of the Independence of the United States of America, in presence of Mr. Albert de Armas and Lewis Feraud, witnesses, required and residing in this city, and after the present being read, the above-named persons, who appeared with the same notary and witnesses, have signed their names.

ALBIN MICHEL,
THOMAS F. TOWNSLEY,
ALBERT DE ARMAS,
L. FERAUD,
FELIX DE ARMAS, *Not. Pub.*

To the Register and Receiver of the Land Office, for the District of St. Stephens, acting as Commissioners, &c., &c. :

GENTLEMEN: Having been informed by you that the claim of Miguel Eslava, for a small tract of land, situate southwest of the fort, containing two arpens and five toises front, by twenty-five arpens deep, is considered by you as not having been confirmed by the act of Congress, of 8th May, 1822, the certificates of confirmation and an order of survey have been issued for the same, by the former board of register and receiver.

This claim having been placed by the late commissioners, in the class of claims founded on private conveyances, which have passed through the office of the commandant, or other evidence, but founded as the claimant supposed, on grants which have been lost by time and accident, I therefore

request that you will represent this claim in the form of a special report, and that the same may be confirmed to Miguel Eslava, by relation to his application made in

so that his heirs and assigns may not be injured, in consequence of the unfortunate circumstances which have occurred concerning it.

Miguel Eslava died in the year 1823, and his present heirs are Miguel D. Eslava, Joaquim Eslava, two infants of Gertrude Eslava that was, and one of Jerome Eslava that was ; which is evidenced by other depositions, and of record in your office.

The undersigned do not present this claim anew for information, believing it was confirmed. By reference to the documents presented to the first commissioners, it appears that this claim, instead of being founded on a private conveyance, or other evidence of a grant, lost by time or accident, as stated in the report of the commissioner, is actually founded on registered complete grant or patent from the French Government of Louisiana, made by Monsieur Dabbadie, director-general of the king at New Orleans, governor and ordinator of the Province of Louisiana, dated the 27th of December, 1763, to Madam de Lusser, under whose heirs the said Miguel Eslava held, and that land so granted, which the commissioner states in his report as not inhabited and cultivated, was at the date of the grant in the possession of Madam de Lusser the grantee, who had cleared the same, as far back as the year 1748, and then served to lodge her slaves, for whom she had built cabins thereon.

The commissioner may have been misled by the application made for Miguel Eslava, and which he the said Eslava, who was unacquainted with the English language, may not have scrutinized it is evident, from its not embracing the facts he submitted to the commissioners, in relation to that claim, in support of which claim we submit :

First. French grant to Madame de Lusser, already recorded in your office.

Second. A certified copy of Spanish bill of sale, which has passed through the office of the commandant, executed at Mobile, the 21st June, 1809, by Joseph Chastang, as attorney in fact of Hazeur de Lorme, of New Orleans, heir of the estate of M. Lusser, to Miguel Eslava ; in which the said tract of land is particularly described, and the bill of sale, executed in presence of divers witnesses, who witnessed the same, the original of which is contained in a book of Spanish records, by law in the keeping of the clerk of the county court of Mobile county, and which was yesterday compared with the said original, and found an exact copy, being corrected by the transposition of a few words, which did not in the least impair the sense of the original, and were evidently a clerical error only.

Third. The additional testimony of Joseph Ortis, Miguel Guigles, and Lytleton Lecatt, which establishes the fact, that the said tract of land was in the possession of Miguel Eslava, during the existence of the Spanish government at Mobile, and subsequently to the possession of the same by the family of de Lusser, and also the existence of the negro cabins on the said land, and that it was a kind of plantation, &c.

Fourth and fifth. Deposition of Asher F. Stone : showing, that the said tract of land was in the possession of the said Miguel Eslava, up to the time of his death, which occurred in 1823 ; that the said tract is still in the possession of Miguel D. Eslava, and other heirs of Miguel Eslava, and that taxes have been paid upon the same, and paid by them ; also, plat and sur-

vey executed by Silas Dinsmore, principal deputy-surveyor, November 31, 1830.

The quantity of the said tract is mentioned in the French grant as being two arpens and four toises front by twenty-five arpens in depth, &c. ; and the bill of sale, No. 2, of Joseph Chastang, agent of Hazeur de Lorme, heir of de Lusser, executed in 1809, as containing a front of two arpens and four toises by twenty-five arpens in depth, situate southwest of the Royal Fort of Mobile, bounded, on the east, by the houses and lot of the said Miguel Eslava ; west, by lands of M. Monsieur ; and north and south, by vacant lands ; and is more particularly described by the accompanying plats and surveys executed by Dinsmore and Dowell, abovementioned.

It will be perceived that the word "commission," on the second page of the Spanish bill of sale No. 2, has been translated "concession," whereas it means "power" or "authority" delegated ; by which inaccuracy in the translation, Chastang, as agent of de Lorme, is represented to say, "and which I have sold to the aforesaid by virtue of my concession ;" instead of, "by virtue of the authority to me delegated." Hence, the former commissioner may have conceived that Joseph Chastang was the original claimant of the said tract, in his own right, whereas he only acted as agent of de Lusser. The short space of time afforded me prevents my furnishing other evidence, and the number of years which have transpired would make it difficult to procure much more, as most of the inhabitants who might have had knowledge of the foregoing facts are dead.

I am, gentlemen, very respectfully, your obedient servant,

M. D. ESLAVA,

For self and other heirs.

AT CHAPTOUTELS, *September 15, 1804.*

SIR : The sickness of Monsieur the Governor and Madame his wife has prevented me from sending you sooner the documents necessary for the recovery of the lands of the Lusser family ; in case they should have been already conveyed, enclosed you will find the titles, and a letter of introduction from Monsieur de Lorme to the commanding officer at Tombigbe, or President of the United States. Should you meet with any difficulties, we beg of you to inform us ; therefore, we will endeavor to remove them.

You must have received a letter containing details, and the titles of the lots of land at Mobile belonging to the Lusser family. All the heirs unite with me, to request of you to dispose of them to the best advantage. We approve, beforehand, every thing you will do on the subject.

Be assured of our acknowledgments, as of the sincere attachment, of, sir,

Your very humble and very obedient servant,

HAZEUR DE LORME.

STATE OF ALABAMA, *Mobile county, ss.*

Personally appeared before the undersigned, justice of peace in and for the county of Mobile aforesaid, Alexis D. Durand, of said county, who, being duly sworn, deposeth and saith, that the foregoing is a correct translation of the annexed.

ALEXIS D. DURAND.

Sworn to and subscribed before me, the 9th May, 1832 :

BASIL MESLIER, *J. P.*

STATE OF ALABAMA, *Mobile county, ss.*

I, Henry Lewis, clerk of the county court of said county, hereby certify the foregoing to be a true copy from the original, remaining of record in my office, compared by me this day.

Given under my hand and seal of said county, this 24th March, 1832.

HENRY LEWIS, *Clerk.*

NEW ORLEANS, *August 2, 1804.*

SIR: We have received the letter which you did us the honor to write to us, dated 24th July, 1804. We write, by the same opportunity, a letter of politeness to Mr. O. Loone, to beg of him to assist you in the collecting, or the taking charge, of our lots of land. If the titles should be wanting in any formality, either through negligence or by the ravages of cockroaches that have eaten their edges, we flatter ourselves that all the old inhabitants of Mobile, whose honesty and probity are known to us, will attest this lot of land have always belonged to the Lusser family. We send you the said titles, to enable you to sell if there should be purchasers. We authorize you to do for the best. We repose entire confidence in you, and, if this letter is not sufficient to enable you to sell in the name of the family, we will, at your requisition, send you a procuracion, power of attorney. We have kept the titles of the lands which are situated on the American line, because our intention is to apply to Government to put us in possession of this portion of land if any body has seized it. There can be no proscription against us. We are Americans. Besides, the newspapers of New Orleans have not notified us of any. We have been informed of it by Regis alone. Receive the thanks and compliments of all the family, and be persuaded of the sincere acknowledgements with which we are, sir, your very humble and obedient servants,

HAZEUR, *Frere.*

P. S. Should it become necessary to send you a power of attorney, do not forget to send us your Christian name. Our respectful compliments to your family. Mons. De Boisland, your nephew, intrusted with the procuracion of Mrs. Duret in Xanifauge, requests you to give him information concerning the ancient lands of Mr. Durand, uncle of Mr. Duret.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before the undersigned, justice of the peace in and for the county of Mobile aforesaid, Alexis D. Durand, of said county, who, being duly sworn, deposeeth and saith: That the foregoing is a correct translation of the annexed.

ALEXIS D. DURAND.

Sworn to and subscribed before me, the 9th May, 1832.

BAZIL MESLIER, *J. P.*

STATE OF ALABAMA, *Mobile County, ss.*

I, Henry Lewis, clerk of the county court of said county, hereby certify the foregoing to be a true copy from the original remaining of record in my office, compared and corrected by me this day.

Given under my hand and the seal of said court, this 24th day of March, 1832.

HENRY LEWIS, *Clerk.*

Personally appeared before the undersigned, justice of the peace in and for the county of Mobile, Joseph Ortis, of Pensacola, who, being duly sworn, deposeth and saith: That deponent is sixty six years old; that deponent formerly resided in the city of Mobile, and resided therein for twenty-one consecutive years, prior to, and up to, and ending in the year of our Lord eighteen hundred and fifteen; that he was well acquainted with the late Miguel Eslava in his lifetime; that he knows from his own knowledge and recollection that the said Eslava resided, during the whole of the said twenty-one years, in the house situated on the west side of Royal street, (west side,) continued between Munroe and Eslava streets, which said house and lot, between the aforesaid streets, and bounded by the same, were notoriously known as the property of the said Eslava; that the said Eslava had an extensive garden, in the rear of the said house, under cultivation; that in the rear of the said house, there was a quantity of negro huts or houses, being west thereof, and at a considerable distance therefrom, which were used by the negroes of de Lusser; that he was acquainted with de Lusser; that the said de Lusser died previous to the year eighteen hundred; he believes it was sometime in the year seventeen hundred and ninety-six that where those negro huts were was a kind of plantation; that the said de Lusser was a native of France, and formerly had been in the French service; that deponent cannot recollect the precise spot where the said negro huts were, but believes they must have been several hundred yards in the rear of the aforesaid house and residence of the late Eslava; that deponent left Mobile for Pensacola about the year eighteen hundred and fifteen, where he has continued to reside ever since, having returned to Mobile on a visit in the year eighteen hundred and nineteen, and again this year, eighteen hundred and thirty-two, about one month since; that he is well acquainted with Miguel D. Eslava and Joaquim Eslava, heirs of the said Miguel Eslava, and with Gerome and Gertrude Eslava in their lifetime, who also were a son and daughter of the said Miguel Eslava; and that deponent has no interest in the lands above mentioned, nor expects any.

his

JOSEPH X ORTIS.

mark.

Sworn to and subscribed before me, 23d March, 1832.

BAZIL MESLIER, *J. P., M. C.*

Also personally appeared before the undersigned, justice of the peace in and for the county of Mobile, State of Alabama, Miguel Guigles, of Pensacola, who, being duly sworn, deposeth and saith: That deponent is 64 years of age; that he did not reside in Mobile, but was off and on between New Orleans and Mobile for about twenty years, from 1796 to 1814, being a trader, and owner, and commander of a vessel; that, during that time, he visited Mobile about once a month; that he was well acquainted with Miguel Eslava, and with the lands described in the foregoing affidavit of Joseph Ortis,

which said affidavit was read to him ; that he knows from his own knowledge that the said Eslava resided in the said house during all that time ; that he knows that the said Eslava had a large piece of ground in cultivation in the rear of the said house, which said house fronts on the bay or river of Mobile ; and that deponent has no interest in the said land, nor expects to have any.

his

MIGUEL X GUIGLES.

mark.

Sworn to and subscribed before me, the 23d of March, 1832.

BASIL MESLIER, *J. P., M. C.*

Personally appeared before the undersigned, justice of the peace, Joseph Ortis, who, being again duly sworn, deposeth and saith : That he has taken a view of the lands mentioned in the foregoing affidavit, and that the negro huts therein described and mentioned by him, were situated some where near to the present Choctaw point road, near the east side thereof, and that he well recollects that they were used by the said Miguel Eslava subsequently to their being used by the said de Lusser, and previous to the American troops taking possession of Mobile.

his

JOSEPH X ORTIS.

mark.

Sworn to and subscribed before me, the 23d of March, 1832.

BASIL MESLIER, *J. P., M. C.*

Personally appeared before the undersigned, justice of the peace in and for the county of Mobile, Lytleton Lecatt, who, being duly sworn, deposeth and saith : That deponent first came to Mobile about the year 1809 ; that he recollects that as far back as 1811, Miguel Eslava was resident in the house in the foregoing depositions mentioned, and that he continued to reside therein up to the time of his death, which occurred about the year 1822 ; and that he was also in possession, during the said space of time, lot of land on which the said house stands, situated on west side Royal street, and bounded by Eslava and Monroe streets, as now laid out ; that Washington street, as now laid out, and existing, was not laid out, nor did exist ; that the said Eslava was in possession of negro huts or houses, in the rear of, and west of his said house, as far back as 1811 or 1812, according to the remembrance of deponent, say situated 180 yards or two hundred yards therefrom ; also, west of Washington street, as now laid out ; and deponent full well remembers the two old poplar trees now standing on the said ground, and west of the said Washington street, in the vicinity of which stood the said negro huts always referred to ; and that deponent believes the heirs of the said Miguel Eslava to be at the present time in possession of the tract of land in the rear of the mansion-house of the said Miguel Eslava, and extending to the back part of the town of Mobile ; and that deponent is not interested in the said tract of land, nor expects to be.

L. LECATT.

Sworn to and subscribed before me, the 23d of March, 1832.

J. F. ADAMS, *J. P., Mobile county.*

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before the undersigned, justice of the peace in and for the county of Mobile aforesaid, A. F. Stone, of said county, who, being duly sworn, deposeth and saith: That deponent was well acquainted with Miguel Eslava, late of said county, deceased, in his lifetime; that deponent came to Mobile to reside therein in 1818, and has resided therein ever since, to the present time; that deponent well remembers that the said Miguel Eslava resided in, and was possessed of, up to the time of his death, of the house and lot described in the affidavit of Joseph Ortis, and now bounded by Royal street on the east, Eslava street on the south, Washington street on the west, and Monroe street on the north; that deponent well remembers that the said Miguel Eslava claimed, and was in possession of the tract of land particularly described by the survey and plat of Silas Dinsmore, on the other side; that deponent assisted with the said Dinsmore in making the said survey, at the request of Thomas F. Townsley, son-in-law of the said Miguel Eslava; that Washington street was laid out by the corporation of Mobile, as deponent believes, about the beginning of the year 1820, with the consent of the said Miguel Eslava; that subsequently to the death of the said Miguel Eslava, about the year 1823 or 1824, the deponent became the agent of the estate and of the heirs of the said Miguel Eslava, and as such agent, from the lastmentioned year until the year 1826, deponent paid taxes assessed upon the lands of the estate aforesaid, and of the said heirs, situated southwest of the old fort, and embracing the tract of land on the other side described; and that deponent verily believes Miguel D. Eslava, and the other heirs of the said Eslava, (Miguel,) to be in possession at the present time of the said tract of land; and that deponent is not in any manner interested in the premises, nor expects to be.

ASHER F. STONE.

Sworn to and subscribed before me, this 24th day of March, 1832.

BASIL MESLIER, *J. P., M. C.*

STATE OF ALABAMA, *County of Mobile.*

Personally appeared before me, the undersigned, justice of the peace in and for the county of Mobile, in the State of Alabama, James Innerarity, of said county, who made solemn oath that he has been a resident of the city of Mobile since the year 1807, and that he was intimately acquainted with Don Miguel Eslava, of said city; that, from the year 1809, or thereabouts, he, said Miguel Eslava, did hold, and did claim, as his own, a tract or piece of land in said city, containing two arpens and some toises front, lying behind his dwelling-house, and extending westwardly, into what then were the woods or wild lands, adjacent to the city, but through which several streets have since been laid out; that the dwelling-house, of which is situated between Monroe and Eslava streets, and fronts on Royal street, on its west side; that this tract, as affiant was informed by Don Miguel Eslava, was purchased by him from the heirs of Madam De Lusser, then deceased. Affiant knows that Don Miguel Eslava resided in Mobile from the year 1798, when affiant first visited Mobile, until the year 1824, or thereabouts, when he died. This affiant was himself in the city of Mobile on the 15th of April, 1813, and knows that the said Don Miguel Eslava was also a resident of said city on that day. He also says that he never heard, nor does he know of any other claim to said tract of land than asserted by the heirs

of the said Don Miguel Eslava; and that the said Miguel Eslava was in possession of said tract of land before described, on the 15th of April, 1813, and continued in possession until he died, and that his heirs have been in possession ever since. Lastly, he saith that he is not, in manner or degree, interested or concerned in the claim asserted by the heirs of Eslava to the tract aforesaid, nor does he expect to be in any manner interested or concerned therein.

JAMES INNERARITY.

Sworn to and subscribed on the 28th day of May, A. D. 1834, before me,
BASIL MESLIER, J. P., M. C.

STATE OF ALABAMA, *County of Mobile, ss.*

Personally appeared before me, the undersigned, justice of the peace in and for the county of Mobile, in the State of Alabama, Louis Dolives, now of the county of Baldwin, in said State, who made solemn oath that he is now sixty-three years old; that he was born in the city of Mobile, in that part of Louisiana situated east of Pearl river, and west of the Perdido, and south of the 31st degree of north latitude; that he was a constant resident of said city of Mobile in the year 1803, when he removed to the adjacent county of Baldwin; that he was in the city of Mobile in the year 1813, and on the 15th day of April in that year; that he knew one Don Miguel Eslava, now deceased, and knows that the said Eslava was in the said city of Mobile on the said 15th of April, 1813, and had resided in said city for very many years previously, ever since affiant was a lad. He further knows that sometime about the year 1796 or 1798, the said Miguel Eslava built the dwelling house which he occupied on the west side of Royal street, between Monroe and Eslava streets; that, from the earliest recollection of affiant, and, as he believes, before his birth, one Madame de Lusser was in possession of the tract of land directly behind and west of the said dwelling-house of the said Miguel Eslava, and contiguous thereto; that she continued in possession of said tract of land until she died, when it was possessed by her heirs, who, in the year 1809, or thereabout, sold it to the said Miguel Eslava, who then took possession of the same, and kept it until he died; that the said tract was not claimed by any other person while Madame de Lusser was in possession, or since. Affiant knows that the possession of Madame de Lusser, and of her heirs, and of Miguel Eslava, was for a greater length of time before the 15th of April, 1813, than ten consecutive years: said tract contained, as far as he could judge, two arpens and more in front, and ran back a great distance westwardly into the woods. He is not, in any manner or degree, interested in said tract of land, nor in the claim to it, asserted by the heirs of Miguel Eslava; nor does he expect, even in any manner, to become interested; he has spoken only what he knows to be true.

LOUIS DOLIVES.

Sworn to and subscribed before me, this 27th day of May, 1834.

HUGH H. ROLSTON, J. P.

STATE OF ALABAMA, *County of Mobile, ss.*

Personally appeared before me, the undersigned, justice of the peace in and for the county of Mobile, State of Alabama, Sifroy Dolives, of said county, who made solemn oath that he is now fifty-two years old; that he was born in the city of Mobile, in that part of Louisiana which was situated east of Pearl river, and west of the Perdido, and south of the 31st

degree of north latitude; that he was in the city of Mobile in the year 1813, and on the 15th day of April in that year; that he knew one Don Miguel Eslava, now deceased, and knows that the said Eslava was in the said city of Mobile on the said 15th day of April, 1813, and has resided in said city for many years previously, ever since affiant was a lad. He further states that, as far back as he can remember, he has known the said Don Miguel Eslava to have been in the occupancy of the house, on the west side of Royal street, between Monroe and Eslava streets, in which he resided, and in which he died in the year 1824; that he knew the said Don Miguel Eslava to be in possession of a tract of land of about two arpens, or more, front, immediately in the rear of his (Eslava's) said dwelling-house, and running back to the woods for some distance, which tract or lot of land he knows to have been sold to the said Eslava by one Eugene Chastang in or about the year 1807 or 1808; that he continued in the undisturbed possession of said tract of land until he died; that said tract was never claimed by any other person, that he knew or heard of. Affiant knows that the possession of Madam de Lusser, and of her heirs, and of Don Miguel Eslava, and of his heirs, was for a greater length of time before the 15th day of April, 1813, than for ten consecutive years. He is not, in any manner or degree, interested in said tract of land, nor in the claim to it, asserted by the heirs of Miguel Eslava; nor does he expect, ever in any manner, to become interested.

SIFROY DOLIVES.

Sworn to and subscribed, on this 29th day of May, 1834, before
BASIL MESLIER, J. P.

STATE OF ALABAMA, *Mobile County, ss.*

I, Henry Lewis, clerk of the county court of said county, hereby certify, that Miguel D. Eslava, Gerome Eslava, Joaquim Eslava, Gertrude Townsley, (late Gertrude Eslava,) are the legal heirs of the late Miguel Eslava, deceased, as appears from the records of my office.

Given under my hand and seal of said county this first day of
[L. s.] July, 1834.

H. LEWIS, *Clerk, &c.*

LAND OFFICE, ST. STEPHENS, ALA.,
May 29, 1838.

I do hereby certify, that the annexed and foregoing transcript is correctly copied from the book of claims laid before, and acted on by, the commissioners, Messrs. Hazard and Owen, as the same is found in this office.

JAMES MAGOFFIN, *Register.*

GENERAL LAND OFFICE, June 21, 1838.

James Magoffin, who has signed the within certificate, is register of the land office at St. Stephens, Alabama.

JAMES WHITCOMB, *Commissioner.*

No. 1.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Hugh H. Rolston, a notary public in and for said county, duly commissioned and qualified, Louis Dolives, who being duly sworn, deposeth and saith : That he is above fifty years old ; that he was born in this section of the country ; that he has been well acquainted with the town of Mobile since his infancy, having resided either in the town of Mobile, or on the opposite side of the bay of Mobile. And this deponent further saith : That he was and is well acquainted with the buildings and improvements made and erected before the United States took possession of the town of Mobile, then being under the dominion of the King of Spain ; that he is well acquainted with a lot of land in said town of Mobile, (now city of Mobile,) occupied by Don Miguel Eslava, who is now deceased, and who was the king's storekeeper : and, also, of a lot of land south of the said Eslava, occupied by person or persons called Durretts. And this deponent further saith . That there were no improvements, cultivation, or buildings, west of the said Eslava, or west of the said Durretts, for one quarter of a mile, previous to the change of Government ; that the first improvements and buildings, after the change of Government, were made and erected by Joseph C. Kennedy, Esq., now deceased, west of the premises of the said Eslava, in the year 1815, being at the southwest intersection of streets now called St. Emanuel and Monroe streets.

LOUIS DOLIVES.

Sworn to and subscribed before me, this thirteenth day of December, A. D. eighteen hundred and thirty-four. In testimony of which I have
[L. s.] hereto set my hand and seal notarial.

HUGH H. ROLSTON, *Notary Public.*

No. 2.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Henry Lewis, a notary public in and for said county, residing in the city of Mobile, Sifroy Dolives, who being duly sworn, deposes and says : That he is forty-four years of age ; that he was born in the city of Mobile ; that he has lived in said Mobile from the time of his birth to the present time ; that he was, from the time of his childhood to the present time, well acquainted with the tract of land in said city bounded on the north by Monroe street, and on the east by Washington street ; that, during the time of the Spanish government in Mobile, there was no inhabitant or occupant of said tract, and no improvement of any kind upon the same, either by Don Miguel Eslava, or any other person ; that the first improvement ever made upon the same was made by Joseph P. Kennedy, shortly after the Americans took possession of Mobile, who built a house upon said tract of land ; and that he, this deponent, has no interest, directly or indirectly, in said tract of land, or any part thereof.

SIFROY DOLIVES.

Subscribed and sworn to before me. In testimony whereof I have hereto
[L. s.] set my name and seal notarial, this first day of December, A. D. 1834.

H. LEWIS, *Notary Public.*

No. 3.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Hugh H. Rolston, a notary public in and for said county, duly commissioned and qualified, Diego McBoy, who being duly sworn, deposeth and saith: That his age is upward of fifty years; that he has been a resident of the city of Mobile about twenty-eight years; that he was well acquainted with buildings and other improvements below Fort Charlotte, under the Spanish Government; that one Don Miguel Eslava (the king of Spain's storekeeper) had his residence below the said fort; and, also, persons of color, of the name of Durrets, had improvements and buildings south of the said Eslava; that there was no cultivation, buildings, or improvements whatsoever west of the lots of land occupied by the said Eslava, and also Durrets; that, in the year 1815, Joseph P. Kennedy, Esq., now deceased, erected a building west of the lot of land of the said Eslava; and that no other improvements were made previous thereto west of the said Eslava's and Durrets lots of land.

DIEGO McBOY.

Sworn and subscribed before me, this eighth day of December, A. D. eighteen hundred and thirty four. In testimony of which I have hereto
[L. s.] set my hand and seal notarial.

HUGH H. ROLSTON, *Notary Public.*

No. 4.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Henry Lewis, a notary public for said county, William McVoy, who, being duly sworn, deposes and says: That he is fifty-six years of age; that he has lived in and about this city of Mobile for thirty years; that during the Spanish government in Mobile he was well acquainted with a certain tract of land in said city, bounded on the north by Monroe street, and on the east by Washington street, and that there never was any person inhabiting or cultivating the same, nor any improvement of any kind upon the same, under the Spanish government; that the first claim this deponent ever heard of to said tract of land, or any part thereof, was a grant made to himself by way of sale of a part thereof, by the intendant Morales, about the year eighteen hundred and six; that he, this deponent, conveyed said tract of land so granted to him to William E. Kennedy and Joshua Kennedy—the part of said tract of land granted to this deponent having been surveyed under an order of survey given by Don Vincente Pintado, dated Pensacola, 18th August, 1806; that there was no occupancy nor improvement of said tract of land, either under Mr. Lusser, Madame Lusser, Don Miguel Eslava, nor any other person except this deponent; that he, this deponent, has no interest in said land, having conveyed by quitclaim deed merely.

GUILLERMO McVOY.

Subscribed and sworn to before me. In testimony whereof I have hereto
[L. s.] set my name, and seal notarial, this sixth day of December, A. D. 1834.

H. LEWIS, *Notary Public.*

No. 5.

STATE OF ALABAMA, *Mobile County.*

Personally appeared before me, Hugh H. Rolston, a notary public, duly commissioned and sworn, dwelling in the city of Mobile, in said county, Patrick Byrne, who, being duly sworn, deposeth and saith: That he is upward of thirty years; that he has resided in this section of the country since his infancy; that the land lying west of a piece of ground formerly occupied by Miguel D. Eslava, deceased, was unoccupied, and no improvements were made thereon, and, also, west of the heirs of Durrets; and, also, that there were no improvements south of what is now called Monroe street, from the intersection of Monroe street and a street formerly called Washington street, and now called St. Emanuel street, for a half a mile; that the first improvements and buildings were made by Joseph P. Kennedy, Esq., after the change of Government, which this deponent believes was on the 15th April, 1813; that the said Joseph P. Kennedy erected buildings on the said land in the year 1815; that the house and improvements so erected and made are now, according to the plan of the city of Mobile, at the southwest angle or intersection of Monroe and St. Emanuel streets.

PATRICK BYRNE.

Sworn to and subscribed, before me, this twelfth day of November, A. D. [L. s.] eighteen hundred and thirty-four. In testimony of which I have hereto set my hand and seal notarial.

HUGH H. ROLSTON, *Notary Public.*

No. 6.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, H. H. Rolston, Esq., a notary public of the county and State aforesaid, S. H. Garrow, a citizen of the city of Mobile, who, being duly sworn, saith: That he came to the said city in the month of April, eighteen hundred and thirteen, and has since made the said city his residence; and that he does not recollect that there were any improvements or buildings west and south of the streets now called Washington and Monroe. He further saith, that the first house which was erected (to his knowledge) at the intersection of said streets, south and west, was by Joseph P. Kennedy, now deceased; and that the said house was built in the year eighteen hundred and fifteen or sixteen; and that Dr. W. E. Kennedy claimed the land south and west of said streets.

S. H. GARROW.

Sworn to and subscribed, before me, this eighth day of December, A. D. [L. s.] eighteen hundred and thirty four. In testimony of which I have hereto set my hand and seal notarial.

HUGH H. ROLSTON, *Notary Public.*

No. 7.

STATE OF ALABAMA, *County of Mobile.*

I Henry V. Chamberlain, do certify that I have resided in the city of Mobile, more than twenty years last past, and that the section of the city lying south of Monroe street, from the intersection of said street with Washington street, which is now called Emanuel street, all west of said Emanuel street, and south of said Monroe street, was vacant and unoccupied until the year eighteen hundred and fifteen, when Major Joseph P. Kennedy erected a house at the corner of Monroe and Washington streets, which house is now occupied by George Davis, sen. Many other buildings have been erected since that time, on the section of the city before described, but none to my knowledge previous.

HENRY V. CHAMBERLAIN.

MOBILE, Nov. 20, 1834.

STATE OF ALABAMA, *County of Mobile, ss.*

Personally appeared before me, Hugh H. Rolston, a notary public in and for said county, duly commissioned and sworn, the above named Henry V. Chamberlain, who being duly sworn, deposeth and saith, that the facts set forth in the above instrument of writing and by him thereto subscribed, are true.

Sworn to and given under my hand and seal notarial, this 25th day of [L. S.] November, A. D. 1834.

HUGH H. ROLSTON,
Notary Public.

No. 8.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Henry Lewis, a notary public of said county, Charles Hall, who being duly sworn, deposes and says: that he is fifty-eight years of age—that he has lived near the city of Mobile for the space of fifty years last past—that during the whole of that time he has been acquainted with a certain tract of land in the city of Mobile, bounded on the north by Monroe street, and east by Washington street—that during the Spanish Government in Mobile, there was no person inhabiting, occupying or cultivating said tract of land—that the first improvement ever made upon the same, was made by Joseph P. Kennedy, who built a house upon the same: the first claim this deponent ever heard of, to said land, is a grant made to William McVoy who sold to William E. Kennedy and Joshua Kennedy, as deponent understood.

CHARLES HALL.

Subscribed and sworn to before me. In testimony whereof, I have hereto [L. S.] set my hand and seal notarial, this thirteenth day of December, A. D. 1834.

H. LEWIS, Notary Public.

Personally appeared before me, W. Barton, register of the land office at Jackson court house, James Innerarity, Esq., who made oath that the several signatures attached to the titles of Thomas Price, now presented by the

claimant, Dr. Wm. E. Kennedy, are genuine, particularly the signatures of the following officers of the Spanish government, or that of Morales, the intendant; that of Heredin, the assessor; that of Juan Morales, an officer of the Contadoria; that of Juan Francisco Ameand de Courvillos, fiscal and treasurer; that of Ramox, a clerk in the intendency, sometimes signed Ramox, and sometimes Vincente Ignatio Ramos; that of Francisco Maximiliano de St. Maxent, the commandant of Mobile; that of Francisco Canedo, secretary in the commandant's office, signed as an assistant witness, as well as that of Juan Suez, signed as an assistant witness also; and that wherever in the said document, presented by the said Kennedy, the signature of any of the said officers appear, they are genuine.

JAMES INNERARITY.

Sworn to and subscribed this 29th February, 1820.

W. BARTON, *Register*.

Diego McBoy, being duly sworn, depose that he is acquainted with the signatures particularly mentioned in the affidavit of James Innerarity, Esq., and that they are genuine.

DIEGO McBOY.

Sworn to and subscribed this 29th February, 1820.

W. BARTON, *Register*.

The said Innerarity and McBoy, further depose, that they came to reside in Mobile, the former in 1807, the latter in 1805. Deponents think, that in 1808, or 1809, several years before the Americans took possession of the country, some cabins were built, and ten or twelve acres of land were cleared, as deponents understood, by Wm. E. Kennedy, within the limits of the tract claimed by said Kennedy, under Price. The cabins were inhabited until after the Americans took possession of the country, and the cultivation of the land kept up by said Kennedy, for several years, to the best of deponents' recollection.

JAMES INNERARITY.

DIEGO McBOY.

Sworn to and subscribed this 29th February, 1820.

W. BARTON, *Register*.

GENERAL LAND OFFICE, *Feb. 12, 1839.*

I hereby certify that the foregoing, on pages 1 and 2, is a true copy of the transcript on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the [L. s.] seal of this office to be affixed at the city of Washington, on the day and year above written.

JAS. WHITCOMB, *Commissioner*.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, H. H. Rolston, a notary public in and for the county and State aforesaid, William H. Robertson, a citizen of the city of Mobile, who, being duly sworn, saith: That I have been a resident

of the city of Mobile since 1812, with the exception of short intervals of absence; that I lived with Don Miguel Eslava during the year 1816, and was his constant associate, and most of the time agent and transacting his business, both previous and subsequent to 1816; knew of his sale to Joseph P. Kennedy of the lot at the southwest corner of Washington and Monroe streets, upon which the said Joseph P. Kennedy erected a one-story house, which he occupied for a length of time; I have never, since my acquaintance with Don Miguel, heard there was any conflicting claim or pretension until now, and always believed that Don Miguel was the only claimant to the property he occupied, and for some distance back, how far and to what extent I know not, but that it extended to and beyond the property sold Joseph P. Kennedy as above stated; that at the time of the sale, and for a length of time after, Joseph P. Kennedy was the lawyer employed by Don Miguel, was in his confidence, had access to all his papers, titles, &c., and said Miguel was in most cases governed by the said Kennedy's advice and counsel, and that in most cases I was the individual who interpreted the conversations, &c.; in none of the intercourse between Don Miguel and the said Kennedy did I ever hear of any conflicting claim; and I am under the impression that Joseph P. Kennedy gave the name of Monroe to the street running parallel with his house, and that it was opened by Don Miguel's permission. And further this deponent saith not.

WILLIAM H. ROBERTSON.

Sworn to and subscribed before me, this 29th day of December, A. D. 1834. In testimony whereof, I have hereunto set my hand and seal notarial the day and year last aforesaid.

HUGH H. ROLSTON, *Notary Public.*

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, H. H. Rolston, a notary public of the county and State aforesaid, Philip McLoskey, a citizen of the city of Mobile, who, being duly sworn, saith: That he came to the city of Mobile in the latter end of April, 1814, and has continued to be a citizen and resident of said city ever since; that he has at different times heard of sales of lots, west of Washington street, and west of the lot of land occupied by Miguel Eslava, between Royal and Washington streets, by the said Miguel Eslava; that he has heard that one lot was sold by the said Miguel Eslava to some one of the Kennedys, and he believes, from having so heard, that other lots were also sold by the said Eslava to other persons.

PHILIP McLOSKEY.

Sworn to and subscribed before me, this 29th day of December, 1829. In witness whereof, I have hereunto set my hand and affixed my seal notarial.

HUGH H. ROLSTON, *Notary Public.*

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, Hugh H. Rolston, a notary public of the State and county aforesaid, S. H. Garrow, a citizen of the city of Mobile, who, being duly sworn, saith: That he has resided in the city of Mobile since the year 1813; that when Joseph P. Kennedy was building the house at the southwest corner of Monroe and Washington streets, the said

Kennedy told this deponent that he had purchased the lot on which he was erecting the same from Miguel Eslava, and that he would have a good title thereto because he would have the title both of Dr. William E. Kennedy and that of the said Miguel Eslava, who both claimed the same; this deponent further saith, that he understood from the said Miguel Eslava that he claimed the said lot, together with a tract of land within which the said lot was embraced, from the heirs of de Lusser, having a depth of twenty-five arpens and a front of two arpens and some toises.

S. H. GARROW.

Sworn to and subscribed before me, this 29th day of December, 1834. In testimony whereof, I have hereunto set my hand and seal notarial.

HUGH H. ROLSTON, *Notary Public*.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, H. H. Rolston, notary public in and for the said county and State aforesaid, Augustine Demony, an inhabitant of the city of Mobile, who being duly sworn, saith that he was born in the city of Mobile, and is now thirty-eight years of age, and has always resided in the said town and city of Mobile. He further saith that he was acquainted with Don Miguel Eslava from his earliest recollection to the time of said Don Miguel's death, in 1823. That from his first acquaintance with said Don Miguel Eslava, he occupied the property now occupied by his son, M. D. Eslava, between Monroe, Eslava, Royal, and Washington (now St. Emanuel) streets. That the said Don Miguel always claimed the tract of land lying to the westward of his said residence, and west of Washington (now St. Emanuel) street, and bounded east thereby. That Joseph P. Kennedy purchased a lot of land, part of the said tract, lying at the southwest corner or intersection of Washington and Monroe streets, of the said Eslava about the year 1814, and that the brother-in-law of this deponent, one Richard Daily, purchased from the said Don Miguel Eslava the lot of land lying immediately adjoining the last-mentioned lot on the west. This deponent further saith that about the year 1819 or 1820, Don Miguel Eslava aforesaid pointed out to the sheriff of Mobile county, who held an execution against him, a part of the said tract of land (two lots) as his property; that the same was levied upon and sold at sheriff's sale, as a part of said Miguel's estate; and that after the said sheriff's sale the said Eslava gave a warranty deed to the purchaser. That the land so sold at sheriff's sale lay west of the lot purchased by Richard Daily, as aforesaid. That the said two lots, sold at sheriff's sale as aforesaid, were purchased by one Dominique Salles, who, a short time thereafter, conveyed one of them to the deponent, and of which he, this deponent, has continued in the uninterrupted possession up to the present time. That this deponent never heard of any adverse claim to the same until about a year ago, when Mr. Joshua Kennedy told this deponent that he had a claim on the said lot. And further the deponent saith not.

AUG. DEMONY.

Subscribed and sworn to before me, this 30th day of December, A. D. 1834.

In witness whereof, I have hereunto set my hand and affixed my seal notarial, this 30th day of December, A. D. 1834.

HUGH H. ROLSTON,
Notary Public.

STATE OF ALABAMA, *Mobile County, ss.*

Personally appeared before me, H. H. Rolston, a notary public of the county and State aforesaid, Benjamin S. Smoot, an inhabitant of the neighborhood of Mobile, who, being duly sworn, saith that he came to the city of Mobile in the year 1804, and has resided in and about St. Stephens and Mobile ever since. That the deponent was well acquainted with Don Miguel Eslava, who resided on the square now bounded on the east by Royal street, south by Eslava street, west by Washington street, (formerly so called, now St. Emanuel street,) north by Monroe street. That deponent was also well acquainted with Joseph P. Kennedy, and that in 1818 or 1819, the said Kennedy was living in a house at the southwest intersection of Washington and Monroe streets. That the said Kennedy told this deponent that he had purchased the lot on which he was living, at the place aforesaid, of Don Miguel Eslava, and advised this deponent also to purchase a lot of the said Eslava, on the same side of the street on which the said Kennedy was then living, and west of his (the said Kennedy's) residence. That this deponent has always understood that the said Don Miguel Eslava claimed and owned the land for some distance west of the house and residence of the said Kennedy, before spoken of, and that the said Eslava was always in possession of the said property from the time this deponent came to this country, as aforesaid, until the time of his (said Eslava's) death; and that this deponent never knew or heard of any other claim to the said property but that of the said Eslava. And further this deponent saith not.

BENJAMIN S. SMOOT.

Sworn to and subscribed before me, this 30th day of December, 1834. In witness whereof, I have hereunto set my hand and affixed my seal notarial, the day and date last above written.

HUGH H. ROLSTON,
Notary Public.

LAND OFFICE, *St. Stephens, Alabama, May 11, 1838.*

I do hereby certify that the annexed affidavits, numbered 1 to 5, inclusive, were found on file in this office this day, and delivered by me to Charles Sherman, Esq., of Mobile.

JAMES MAGOFFIN,
Register.

An indenture made and agreed on this twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-nine, between John F. Everitt, mayor of the city of Mobile, of the one part, and Thomas G. Newboid and Charles Bancroft, of said city, of the other part:

Whereas, the mayor and aldermen of the city of Mobile, in conformity with the provisions of the ninth section of an act of the Legislature of the State of Alabama, passed the twenty fourth day of December, in the year of our Lord one thousand eight hundred and twenty-four, entitled "An act to alter and amend the charter of incorporation of the city of Mobile," levied a tax of twenty dollars and — cents, for the year one thousand

eight hundred and twenty-nine, on a certain lot or parcel of land, as the property of Albin Michel, situate within the said city of Mobile, on the back of Madam Desloges, being one undivided half of a tract known as the Eslava tract, located in the southern suburbs of the city of Mobile :

And whereas, the said tax remaining unpaid for the space of ten days after the delivery of the tax list to the collector of the said corporation, the said collector did proceed to publish a description of the said lot or parcel of land, together with the name of the said Albin Michel, as owner, as well as the valuation of the said lot or parcel of land, together with the tax assessed thereon, for the space of two months in the "Mobile Commercial Register," a public newspaper printed within the limits of the said city; and at the expiration of the said two months, the said tax still remaining unpaid, the said collector did return the same to the clerk of the said corporation, and the mayor of the said corporation did give one month public notice by publishing in the said "Mobile Commercial Register," that the said lot or parcel of land, or so much thereof as might be necessary to satisfy the tax remaining unpaid, would be leased and let at public auction to the highest bidder, for such term of time as might be necessary to satisfy the said tax :

And whereas, at the expiration of one month after the said public notice, on the day and year first above written, the said lot or parcel of land was leased and let at public auction to the said Thomas G. Newbold and Charles Bancroft, they being the highest bidder therefor at the sale or rent of the premises, for the term of twenty-four years from the date hereof, this being the term of time necessary to satisfy the said tax on the said lot or parcel of land.

Now this indenture witnesseth, that the said John F. Everitt, mayor of the said city of Mobile, by virtue of the power in him vested by the said ninth section of the abovementioned act, in consideration of the sum of twenty dollars and — cents, being the full amount of rent for the said term of twenty-four years, at the said sale or rent of the premises, paid to the said mayor and alderman, the receipt whereof is hereby acknowledged, hath demised, leased, and to farm letten, and by these presents doth demise, lease, and to farm let, unto the said Thomas G. Newbold and Charles Bancroft, all the said abovementioned and described lot or parcel of land, with all the privileges and appurtenances thereto belonging. To have and to hold the same from the date thereof, for and until the full end and term of twenty-four years next ensuing, and fully to be complete and ended.

In witness whereof, the said John F. Everitt hath hereunto set his hand as mayor of the said city of Mobile, and affixed the corporate seal [L. s.] of the said mayor and alderman, and the said hath hereunto set his hand and seal the day and year first above written.

JNO. F. EVERITT, *Mayor.*

Attest:

JOSIAH WILKINS, *Clerk.*

STATE OF ALABAMA, *Mobile county, ss.*

Personally appeared before me, Henry Lewis, Esquire, clerk of the county court in and for the county aforesaid, the within named John F. Everitt, mayor of the city of Mobile, who acknowledged to me that he signed, sealed, and delivered the within deed to the said Thomas G. Newbold and Charles Bancroft on the day and year therein mentioned.

Given under my hand and seal this fifth day of November, in the year [L. s.] 1829.

HENRY LEWIS, *Clerk.*

This indenture, made the thirtieth day of September, in the year of our Lord one thousand eight hundred and thirty, by and between Thomas G. Newbold and Charles Bancroft, of the city and county of Mobile, in the State of Alabama, of the first part, and Albin Michel, of the city of New Orleans, in the State of Louisiana, of the second part, witnesseth, that the said parties of the first part, for and in consideration of the sum of seventy-five dollars, of lawful money of the United States, to them in hand well and truly paid by the said party of the second part, through his legally constituted agent, Adolphe Batre, of the said city of Mobile, before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released, and for ever quitclaimed, and by these presents do remise, release, and for ever quitclaim, unto the said party of the second part, and to his heirs and assigns for ever, all the estate, right, title, interest, property, possession, claim, or demand whatsoever, which they, the said parties of the first part or either of them, have at any time acquired or now have by virtue of a certain indenture of lease made and executed on the twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-nine, at the said city of Mobile, by John F. Everitt, as mayor of the said city of Mobile, of the one part, to the said Thomas G. Newbold and Charles Bancroft, of the other part, of all that certain lot or parcel of land, in the said indenture of lease stated to be the property of the said Albin Michel, described as follows, to wit: Situate in the said city of Mobile, on the back of Madame Desloges, being an undivided half of a tract of land known as the Eslava tract, lying in the southern suburbs of said city, which said tract of land was, on the day of the execution of the said indenture of lease, in conformity with the provisions of the ninth section of an act of the Legislature of the State of Alabama, passed on the 24th day of December, in the year 1824, entitled "An act to alter and amend the charter of incorporation of the city of Mobile," leased by the said Everitt, as mayor of the said city of Mobile, to the said Newbold and the said Bancroft, for and during the full end and term of twenty-four years from the date of the said indenture of lease, for the payment and satisfaction of the city taxes for the said city of Mobile, previously imposed by authority of the said act on the said tract of land above described, and which, at the date of the said indenture of lease, were due and owing, and unpaid by the owner or owners of the said tract of land to the said city of Mobile. All which will more fully appear by the said indenture of lease hereunto annexed, and forming and constituting a part of these presents, for all necessary and available purposes. To have and to hold all the estate, right, title, interest, property, possession, claim, and demand, which we, the said Newbold and the said Bancroft, the said parties of the first part to these presents, have derived or acquired in and to the said leased premises above described, in and by virtue of the said indenture of lease, made to us by the said Everitt, as mayor as aforesaid, unto him the said Albin Michel, his heirs and assigns, to the only proper use, benefit, and behoof of the said Albin Michel, his heirs and assigns for ever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals at the city and county of Mobile, in the State of Alabama aforesaid, on the day and year herein first before written.

THOS. G. NEWBOLD, [L. s.]
CHAS. BANCROFT, [L. s.]

Signed, sealed, and delivered in presence of—

THOMAS WHITE,
HENRY LEWIS.

STATE OF ALABAMA, *Mobile County*, ss.

Personally appeared before me, Henry Lewis, clerk of the county court of said county, the abovenamed Thomas G. Newbold and Charles Bancroft, and acknowledged that they signed, sealed, and delivered the above deed on the day and year therein named to the said Albin Michel.

Given under my hand and seal this 8th day of October, 1830.

HENRY LEWIS, [L. s.]

STATE OF ALABAMA, *Mobile County*.

Personally appeared before me, Francis M. Alexander, a justice of the peace, in and for the county of Mobile, and State of Alabama, at Mobile, on this seventeenth day of March, 1837, John James, deputy surveyor of the United States, who being duly sworn, saith, that he has examined what purports to be a copy of a petition filed by F. S. Key, on behalf of Jonathan Hunt, before the general land office, and in relation to the matter of the said petition, he deposeth as follows: That in the survey and location of the Price claim in the city of Mobile, and State of Alabama, as made by him the said John James, as deputy surveyor under the authority of the surveyor of the lands of the United States, in Alabama, and as returned by him the said John James, there is no mistake or error to the knowledge or belief of him the said John James; and further that he knows of no such error, and has never stated to his remembrance, that there was an error in the said survey. He saith that there may exist in the said survey some of those small discrepancies or inaccuracies, as are absolutely unavoidable in field operations, and also in the tables, incident to every survey made in the manner prescribed by the surveying department, but that they are such as are unimportant if any such exist; and that were said survey now to be made again, said deponent would make it as it now is, and does not know of any cause requiring a change in the said survey.

The said deponent further saith, that he submitted the said location to the inspection of the register and receiver of the land office of the United States, at St. Stephens, Messrs. Magoffin and Owen, who subscribed it as being made as nearly in conformity with the titles of said Price claim and other titles, as was possible, according to the official documents and data in their respective offices. The said deponent further saith, that afterward the said survey was transmitted for the inspection of the surveyor-general of the State of Alabama, accompanied by the order of survey and location, under which the survey was made, and also the special letter of instructions which accompanied the said order of location, which documents showed the claims lying contiguous to said grant, and also those included within it, and that the same was approved.

The said deponent further saith, that in laying down the area or contents of the said Price grant, he the said deponent did in his said survey and return, deduct the area of all the older titles embraced within the said grant; that the estimation of the quantity of acres was made after making said deductions and exclusive thereof, and so expressly stated in the said survey and return, and that each other claim and its particular quantity are in the said plat and survey particularly noted, and designated in said return, that

the quantity allotted to the Price grant, does not give to the claimant thereof the full quantity of land to which he is entitled under the act of Congress, but falls short of it, as will also appear by the said return.

The said John James further deposeth and saith, that he never has asserted, said, or certified to his knowledge or belief, to any person whatsoever, nor at any time, that the survey so made and returned by him was erroneous, or that any mistake had been made therein. He saith, that as to the propriety of the locations or the allowance or disallowance of titles or claims, he has nothing to do; that his business as a surveyor under the authority of the United States, is merely to locate according to the instructions and orders of survey which are directed to him, which duty he has performed in this case, and as he confidently believes, correctly, and in strict conformity with the orders of survey; that whether the said survey does or does not conflict with other titles, so far as concerns the merits in law of such titles, he cannot state but so far as the location of the Price grant was required to be made by him, and was made; he saith that it was accurately done and reported or returned, and that in his said survey, plat, and calculation of contents, there is no error that he is apprized of. And the said deponent further saith, that in relation to the Price grant, there was no great uncertainty or difficulty in this respect, because the southern, the western, and the northern boundaries of the claim were previously established and designated to him, by James H. Weakley, Esq., surveyor general for Alabama, in the winter of 1834, and '35, as was also the greater part of the eastern part or eastern boundary, which made the location and survey comparatively speaking, simple and easy in this particular case, and therefore likely to be free from error, so far as he was concerned.

The said deponent further saith, that he admits that he may have said to Jonathan Hunt, when conversing with him in relation to a patent obtained by him for the fractional section fourteen, that if it was intended to extend so far south as he insisted it should properly do, that it would conflict with and interfere with the location of the Price claim, and similar remarks to the same effect, and any certificate which said Hunt may have requested, and which said deponent may have signed at his request, he presumes will be found on examination to contain such information, but he utterly denies that he ever did give, or intended to give, any certificate to the effect that there was an error in the said survey so made by him; and further that in point of fact, no such error does exist. He further saith, that he cannot conceive that after the said location was so made, carefully examined, re-examined in the several offices, and approved, that there should be found that an error existed in the survey, and he is still more surprised to learn that the fact of the existence of such an error is asserted upon the authority of a certificate made by said deponent, when in fact he never gave such a certificate, and never intended to give such a certificate, and when no such error ever did exist to the knowledge or belief of this deponent.

JOHN JAMES,

U. S. Deputy Surveyor.

Sworn and subscribed by said John James, before me, on the day and year aforesaid.

F. M. ALEXANDER, *J. P., M. C.*

THOMAS WHITE
HENRY LEWIS

STATE OF ALABAMA, *Mobile County, ss.*

I, Henry Lewis, clerk of the county court of said county, do hereby certify, that the above is the genuine signature of F. M. Alexander, that he is, as he purports to be, a justice of the peace, in and for said county, and so was at the time of subscribing his name, and that his attestation and official acts are entitled to full faith and credit.

Given under my hand and seal of office, this 18th day of March, A. D. 1837.

H. LEWIS, *Clerk.*

GENERAL LAND OFFICE, *February, 1839.*

I hereby certify that the above and foregoing, on pages 1, 2, 3 and 4, is a true copy of a document on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day [L. s.] and year above written.

JAS. WHITCOMB, *Commissioner.*

Pursuant to an order of survey issued by the register and receiver of the land office at St. Stephens, Alabama, acting as commissioners of land claims, dated 26th day of December, 1835, I have surveyed, for Joshua Kennedy and the other representatives of Thomas Price, a tract of land within the present corporate limits of the city of Mobile, and State of Alabama, in township No. 4, range No. 1, west of the basis meridian, and south of the thirty-first degree of latitude, and bounded as follows: Beginning on the north boundary of the claim of Simon Favre, at piquet N, being the southwest corner of the claim of Francis Collell and the southeast corner of the claim of Thomas Price, and running thence north 7°, east 11.03 chains to piquet A, the northwest corner of the Collell claim; thence south 82°, east 5.75 chains to piquet T, the southwest corner of William McVoy claim; thence north 4°, west 28.50 chains to piquet X, the southwest angle of the Presbyterian church, bearing north 76½°, east, distance 13 links; thence south 69°, west 7.74 chains, the northwest angle of Government and Joakim streets, excluding the property of Lalande, called for as a boundary in the grant to Price; thence north 20°, west, along the west side of Joakim street, 21.11 chains to the northwest corner of the lot granted to Benjamin Dubroca, as called for in the grant to Price; thence north 69° 45' east 8.53 chains; thence north 20°, west 2.66 chains, to the south boundary of St. Louis street; thence north 69°, 45', east, 15.44 chains, to the ancient margin of the river Mobile, being 34½ links west of the southwest angle of St. Louis and Water streets; thence north 36°, west 9.76 chains, to the southeast angle of the Orange Grove tract, granted to John Forbes & Co.; thence north 82°, west 59.86 chains, with the south boundary of the Orange Grove tract, to the Bayou Marmeth; thence with the meanders of said bayou, south 12°, west 10 chains, south 6° 30', west 3.07 chains, to the southeast corner of the claim of William Fisher; thence, with the south boundary of the Fisher tract, north 60°, west 68.68 chains, to the east boundary of the claim of Antonio Espejo; thence, with

said east boundary, south $6^{\circ} 45'$, west $87^{\circ} 30'$ chains, to the southwest corner of the Price claim, being 4.88 chains north of the southeast corner of Espejo claim; thence south 82° , east 126.52 chains to the place of beginning. Containing nine hundred and twenty-one acres and forty-two hundredths of an acre; together with the location and relative position of those lots or parcels of ground included within the above-mentioned boundaries, the date of which appears to be prior to that of the claim of Price; having such shape, form, and marks, natural and artificial, as are represented in the above map and description.

JOHN JAMES, *Deputy Surveyor.*

FEBRUARY 2, 1836.

SURVEYOR'S OFFICE, FLORENCE, ALA.,
April 19, 1837.

Examined and approved.

JAMES H. WEAKLEY,
Surveyor U. S. lands in Alabama.

LAND OFFICE, ST. STEPHENS, ALA.

Having devoted much time in order to indicate a proper location of the "Price claim," I am satisfied that the within survey is as nearly correct as it can be made from any data in this land office.

J. H. OWEN, *Receiver.*
JAMES MAGOFFIN, *Register.*

SURVEYOR'S OFFICE, FLORENCE, ALA.,
April 19, 1837.

I hereby certify that the above is a true copy of the original endorsement of the register and receiver on the original plat of survey of the Price claim, made by John James and returned to this office.

JAMES H. WEAKLEY,
Surveyor U. S. lands in Alabama.

GENERAL LAND OFFICE, *February, 1839.*

I hereby certify that the within and above is a true copy of a document on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

JAS. WHITCOMB, *Commissioner.*

MOBILE, ALABAMA, *March 21, 1837.*

SIR: In answer to your note I have again to say, that I think it possible there may be an error in the *location* of the claim of Thomas Price, in the city of Mobile, though not in the survey. This claim conflicts with so many grants, some of an earlier, and some of an older, date, than it purports to be, I am not certain that some older claims have not been included

in my location that ought to have been excluded. I am now of the opinion, that with respect to the location, so far as the eastern boundary is concerned, some errors have been committed in including titles that, in point of priority, are entitled to a preference in location.

JOHN JAMES, *U. S. Deputy Surveyor.*

JONATHAN HUNT, Esq.

GENERAL LAND OFFICE, *February 12, 1839.*

I hereby certify that the foregoing is a true copy of the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the
[L. S.] day and year above written.

JAS. WHITCOMB, *Commissioner.*

Having recently located, for the representatives of Thomas Price, a tract of land, situate within the corporate limits of the city of Mobile, for which a patent certificate has been issued by the commissioners of the land office at St. Stephens, Alabama, as there appear to be some conflicting claims, whose situation as respects location appears to be better understood at present than at the time of making the abovementioned location, it might, therefore, contribute much towards a proper reconciliation of conflicting interests, if the patent should be withheld for the present, until a proper investigation of the titles should be entered into, both parties be heard on the subject, and the commissioners be enabled to make a proper adjustment of the matter.

JOHN JAMES, *U. S. Deputy Surveyor.*

Examined and compared, 25th March, 1837, by me.

BENJ. WILKEAS, *J. P.*

GENERAL LAND OFFICE, *February 12, 1839.*

I hereby certify that the foregoing is a true copy of the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the
[L. S.] day and year above written.

JAS. WHITCOMB, *Commissioner.*

GENERAL LAND OFFICE, *February 11, 1839.*

SIR: In compliance with the request in your letter of the 8th instant, I herewith enclose certified copies from the records of the granting clauses of patents for certain claims in Alabama, viz: From the granting clause of the patent as recorded in vol. L, on pages 1 to 4, inclusive, and from that of the patent as recorded in the same volume, on pages 7 to 11, inclusive.

Very respectfully, your obedient servant,

JAS. WHITCOMB, *Commissioner.*

FRANCIS A. DICKINS, Esq.

Now, therefore, know ye, that the United States of America, in consideration of the premises, and in conformity with said act of Congress, have remised, released, and for ever quitclaimed, and by these presents do remise, release, and for ever quitclaim unto the said Joshua Kennedy and to his heirs, the said tract above described, subject to any just claim or claims to all and every part thereof, of all and every person or persons, bodies politic or corporate, derived from the United States, or from or under either the British, French, or Spanish Governments, prior to the passage of the above recited act; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, subject to any such just claim or claims as aforesaid, unto him, the said Joshua Kennedy, and to his heirs and assigns for ever, so that neither the United States, or any other person claiming under them, except in conformity with the provisions of said above recited act and the above reservation, may or can set up or claim any right or title thereto.

GENERAL LAND OFFICE,
February 11, 1839.

I hereby certify that the foregoing is a true copy of the granting clause from the record in this office of the patent (vol. L, pages 1, 2, 3, 4) in favor of Joshua Kennedy, for the tract surveyed under the provisions of the act of Congress approved 5th May, 1832, chap. 76, page 52, acts 1st session 22d Congress, entitled "An act confirming to Joshua Kennedy, his claim to a tract of land in the city of Mobile."

In testimony whereof, I have hereunto subscribed my name, and caused [L. s.] the seal of this office to be affixed, at the city of Washington, on the day and year above written.

JAS. WHITCOMB, *Commissioner*.

Now, know ye, that the United States of America, in consideration of the premises and in conformity with said acts of Congress, have remised, released, and for ever quitclaimed, and by these presents do remise, release, and for ever quitclaim unto the said Joshua Kennedy and the other legal representative or representatives of Thomas Price, and to their heirs, the said land above described, subject to any just claim or claims to all and every part thereof, of all and every person or persons, bodies politic or corporate, derived from the United States or from either the British, French, or Spanish authorities; and particularly excepting from the operation of this conveyance the claims of John Forbes and Company, certificates one, twenty-two, and twenty-three; of William E. Kennedy, certificate forty-two; of James Innerarity, certificate number three; of P. H. Hobart, certificate thirty-six; of T. Nicholas, certificate three; of M. Rouis, certificates four and twenty-five; of S. Spalding, certificate forty-five; of P. H. Hobart, certificate thirty-five; of Victor Ginnard, certificate fifty-one; of Leon Nicholas, certificate number four; of Silv Nicholas, certificate five; of M. Robeshow, certificate twenty-two; of F. Frenier, certificate sixty-six; of Ann Surtell, certificates twenty-seven, twenty-eight, and twenty-nine; and the surveys for the heirs of Samuel Mimms, for J. B. Toulmim; for Jesse Embree, the church of the holy conception; and for Lifroy Dolives, so far as the same may either under the French, Spanish, British or American Governments, be better than the legal claim of the said Joshua Kennedy and the other legal representative or representatives of Thomas Price, and no

further : To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging, subject to any such just claim or claims as aforesaid, and also subject to such special exceptions as aforesaid, unto them the said Joshua Kennedy and the other legal representative or representatives of Thomas Price, and to their heirs and assigns for ever ; so that neither the United States, nor any other person claiming under them, except as is provided in said acts, and the reservations and exceptions aforesaid, may or can set up any right or title thereto.

GENERAL LAND OFFICE, *February 11, 1839.*

I hereby certify that the foregoing on pages 1 and 2 is a true copy of the granting clause from the record in this office of the patent (vol. L, pages 7, 8, 9, 10, 11) in favor of Joshua Kennedy and the other legal representative or representatives of Thomas Price, for the survey of a tract of land under the provisions of the act of Congress approved on the 3d of March, 1827, (land laws, page 937, No. 610 ;) entered in the reports of the register and receiver at St. Stephens, Alabama, as special report numbered one, as confirmed by the 2d section of the act of the 2d of March, 1829, chapter 40, page 50, acts of the 2d session of the 20th Congress.

In testimony whereof, I have hereunto subscribed my name, and caused
[L. S.] the seal of this office to be affixed, at the city of Washington, on the
day and year above written.

JAS. WHITCOMB, *Commissioner.*

...and to hold the same together with all the rights, priv-
leges, immunities, and appurtenances of whatsoever nature thereunto be-
longing subject to any such last claim as aforesaid and also sub-
ject to such special examinations as aforesaid under the said John-
Kennedy and the other legal representatives or representatives of Thomas
Price and to their heirs and assigns for ever; so that neither the United
States nor any other person claiming under them except as is provided in
said acts and the regulations and instructions aforesaid may or can set up
any right or title to the same.

...and that the said John Kennedy and the other legal representatives
of the said John Kennedy and the other legal representatives of the said
Thomas Price and their heirs and assigns for ever shall and lawfully may
and lawfully ought to hold the same together with all the rights, priv-
ileges, immunities, and appurtenances of whatsoever nature thereunto be-
longing subject to any such last claim as aforesaid and also subject to such
special examinations as aforesaid under the said John Kennedy and the other
legal representatives or representatives of Thomas Price and to their heirs and
assigns for ever; so that neither the United States nor any other person
claiming under them except as is provided in said acts and the regulations
and instructions aforesaid may or can set up any right or title to the same.

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longing subject to any such last claim as aforesaid and also subject to such
special examinations as aforesaid under the said John Kennedy and the other
legal representatives or representatives of Thomas Price and to their heirs and
assigns for ever; so that neither the United States nor any other person
claiming under them except as is provided in said acts and the regulations
and instructions aforesaid may or can set up any right or title to the same.

IN SENATE OF THE UNITED STATES.

JANUARY 9, 1856.

Confirmed by yeas.

Mr. WILLIAMS, from the Committee on Naval Affairs, submitted the following

REPORT:

The Committee on Naval Affairs, to which was referred the Memorial of Andrew Armstrong, report:

That said Armstrong was appointed navy agent at Lima, in Peru, and continued as such in May, 1833. That he expired upon the discharge of the duties of that office in June, 1833.

On the 5th of April, 1830, a letter from the Navy Department to said Armstrong, was sent to him at Lima, notifying him that his appointment as navy agent at Lima, was renewed, and calling for his accounts and vouchers for settlement, which letter was not received by Mr. Armstrong until October 20, 1830. The usual time for letters to be passed upon Washington to Lima, was considered by the department to be about twenty days; and hence it was assumed that the letter of 5th April, to Mr. Armstrong, should have been received by him as early as the 5th of July, although he said it was not so received until October 20, 1830. On the 13th of May, 1830, Mr. Armstrong, as navy agent, drew a bill for \$2,000, and on the 15th of August, 1830, drew another bill, for \$1,000, upon the Navy Department, both of which were presented for payment to the United States Bank at Lima, and Mr. Armstrong had been appointed as navy agent. On the 15th of September, 1831, a letter from the Navy Department was written to Mr. Armstrong, at Lima, (in reply to his letter of June 4, 1831) stating that it was supposed by the department that the notice of the expiration of his appointment would have reached him in ample time; and accordingly it was not deemed proper to issue his bills dated after the expiration of that time; and adding, that when however it was ascertained that the notice was not received by him within the prescribed period, the department had honored all his drafts subsequently presented, and, dated anterior to the receipt of the letter revoking his appointment; and that all his bills thus bearing date, though formally refused, if presented and duly verified, would be paid; and this letter was delivered to Mr. Armstrong on the 15th of February, 1832. Mr. Armstrong alleges that, in consequence of the refusal and return of his bills it became necessary for him to reside at Lima until he received notice that the department would pay them, and that he was consequently subjected to great losses and expenses. In July, 1832, Mr. Armstrong presented his accounts to the department for settlement, which have since been paid.

